

Docket No: CIT/K-0107B

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Jin Soo LEE and Hyeon Jun KIM

Serial No: 10/673,281

Group Art Unit: 2162

Confirmation No: 4754

Examiner: Giovanna B. Colan

Filed: September 30, 2003

Customer No: 34610

For: METHOD OF SEARCHING OR BROWSING MULTI-MEDIA DATA AND
DATA STRUCTURE

**REQUEST FOR RECONSIDERATION
UNDER 37 C.F.R. §1.114**

U.S. Patent and Trademark Office
Customer Window, Mail Stop **RCE**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

The following remarks are submitted with a Request for Continued Examination (RCE) filed in connection with the above-identified application. A Petition for Extension of Time was submitted with the RCE to make these papers timely.

Claims 1-3, 5-12, 18, 20-23, and 29-64 are pending.

On October 3, 2007, the Examiner granted Applicants' representative an interview to discuss the rejections in the Final Office Action. During the interview, the Examiner agreed to withdraw the same-type double-patenting rejection essentially for the reasons set forth in the Amendment filed on January 8, 2007. Only the art-based rejections now remain.

To overcome the rejections under 35 USC §§ 102 and 103, Applicants emphasized that the Wang patent does not teach or suggest the “reliability information” recited in the independent claims. More specifically, Applicants noted that claim 1 recites receiving reference multimedia data with a data structure that has three types of information: (1) features of said reference multimedia data, (2) weight information of said features, and (3) **reliability information indicating a reliability of the weight information**. The Wang patent does not disclose or suggest these features.

In maintaining the rejection of claim 1, the Examiner relied on two portions of the Wang patent to support her proposition that the Wang patent discloses the “reliability information” of the claimed invention: (1) column 12, lines 62-66 and (2) column 18, lines 48-67.

(1) At column 12, lines 62-66, the Wang patent discloses three parameters (hue, saturation, value) that are used to portray the skin color of a face. These parameters are weighted (.5 hue, .3 saturation, .2 value) to reflect their significance to a face identification.

Thus, the weight information in Wang is assigned to determine the significance of the parameters (namely hue, saturation, and value) which has been indicated to correspond to the “features” recited in claim 1. Wang does not disclose reliability information indicating a reliability of the weight information itself, i.e., Wang does not disclose reliability information which indicates the reliability of the weights .5, .3, and .2 assigned to the parameters hue, saturation, and value. Absent a disclosure of these features, the Wang patent cannot anticipate claim 1 or any of its dependent claims.

Amendment dated October 9, 2007

Reply to Final Office Action of April 6, 2007

(2) During the interview, the Examiner mentioned for the first time during prosecution that she is also relying on the disclosure at column 18, lines 48-67, for a disclosure of the reliability information of claim 1. At column 18, the Wang patent discloses formulating a search inquiry based on image attributes. According to this scheme:

[T]he system 100 provides a means for ranking each image attribute used in a search inquiry. That is, the user is able to assign a numerical rank to each image attribute in the search inquiry, each ranking value used as a coefficient to weight the image attribute for a particular image.

From these disclosures, it is therefore clear that the column 18 version of the Wang method performs a search based on two pieces of information, namely the image attribute and a rank value. Wang further makes clear that the rank value is used as a weight, not to provide an indication of the reliability of a weight as required by claim 1. As emphasized in the interview, the column 18 disclosure is therefore no more relevant for purposes of establishing the obviousness of claim 1 than the column 12 disclosure. That is, the column 12 and column 18 disclosures both disclose 1) features of reference multimedia data and 2) weight information of those features. But, both fail to disclose or suggest **reliability information indicating a reliability of the weight information**.

Without a disclosure of these features, the Wang patent cannot properly be relied on to establish a *prima facie* case of anticipation of claim 1 or any of its dependent claims. Furtherance of claim 1 and its dependent claims to allowance is therefore requested.

Claims 18, 29, 37, 48, 59 and their dependent claims also recite steps or features relating to reliability information similar to that of claim 1. Accordingly, it is submitted that these claims are also allowable.

The Rule 132 Declarations

Throughout prosecution and during the interview, the Examiner did not acknowledge in any substantive way the Rule 132 Declarations of Jin-Soo Lee. The Examiner's continued failure to address these Declarations represents an on-going breach of the rules of proper patent application examination.

The Rule 132 Declarations address the deficiencies of the Wang patent relative to claim 1. In the Declaration, the declarant, who qualifies as at least one of ordinary skill in the art, stated that the search inquiry of Wang does not include the "reliability information" of claim 1. These Declarations may also be relied on to evidence the inadequacy of claim 18 of the Wang patent, which was cited by the Examiner during the interview as a further basis of support for the rejections in the Final Office Action.

Under MPEP § 716.01, when a Rule 132 Declaration is presented to traverse a rejection, the patent examiner is required to evaluate the Declaration. If the Examiner disagrees, the Examiner must provide specific reasons on the record as to why she considers the Declaration deficient. The Examiner has not done so.

Moreover, the Federal Circuit has just decided *In re Sullivan*, 84 USPQ.2d 1034 (Fed. Cir. 2007). In this case, the patent applicant submitted a Rule 132 Declaration to rebut a *prima facie* case of patentability that was purported to have been established on the record. The patent examiner, however, failed to give any meaningful consideration to a Rule 132 Declaration. By meaningful consideration, the Federal Circuit requires the examiner to specifically address each rebuttal statement set forth in the Declaration. The Examiner is further required to treat these statements as evidence. In *Sullivan*, the examiner failed to do so and was found to have acted improperly.

In the present application, the Examiner has acted in the same manner. The Examiner has failed to give any meaningful consideration to the statements in the two Declarations filed by Mr. Jin-Soo Lee. These statements include:

9. The Wang patent does not teach or suggest a data structure as recited in claim 1 which includes reliability information of any type, let alone reliability information which indicates a reliability of weight information corresponding to features of reference multimedia data included in the data structure.
12. The Wang patent does not teach or suggest that its search inquiry includes any information indicating how reliable those ranking values are, i.e., the Wang search inquiry does not include reliability information indicating reliability of weight information included in a data structure as recited in claim 1.
15. In summary, the Wang patent does not teach or suggest a data structure used as a basis for performing an image or multimedia data search that includes A reliability information indicating a reliability of the weight information as recited in claim 1.

The foregoing statements in the Declarations serve as evidence that the Wang patent does not disclose, teach, or suggest the “reliability information” in claim 1. Without this feature, the Examiner cannot establish a *prima facie* case of unpatentability of the pending claims.

For all of the foregoing reasons, it is respectfully submitted that claim 1 and its dependent claims are not anticipated by the Wang patent.

Claim 18 recites a data structure that includes “reliability information representing a reliability of the variable information.” As evidenced by both Rule 132 Declarations, the Wang patent does not disclose these features.

Claim 29 recites a data structure that includes “reliability information indicative of a reliability of the weight information.” As evidenced by both Rule 132 Declarations, the Wang patent does not disclose these features.

Claim 37 recites obtaining a data structure which includes “reliability information indicative of a reliability of the weight information.” As evidenced by both Rule 132 Declarations, the Wang patent does not disclose these features.

Claim 48 recites a data structure having “reliability information indicative of a reliability of the weight information.” As evidenced by both Rule 132 Declarations, the Wang patent does not disclose these features.

Claim 59 recites “determining reliability of extracted characteristic attributes of the image.” The Wang patent does not disclose these features.

The Rejections under 35 USC § 103(a)

Claims 6-11 were rejected for being obvious in view of a Wang-Kinra combination. This rejection is traversed on grounds that the Kinra patent does not teach or suggest the features of base claim 1 missing from the Wang patent.

Claims 12, 21-23, 32-36, 40-47, and 51-58 were rejected for being obvious in view of a Wang-Kinra-Rose combination. This rejection is traversed on grounds that the Rose patent does not teach or suggest the features in the independent claims missing from the Wang and Kinra patents.

Claim 60 recites that “the reliability information is different from the weight information.” These features are not taught or suggested by the references of record. As previously indicated, column 12 of Wang discloses that the weights assigned to each parameter (hue, saturation, value) indicate a significance of the parameters. Wang does not disclose additional information which is different (e.g., separate and distinct) from the weight information and that indicates a reliability of the weight information. Wang, therefore, does not disclose the features of claim 60 and the second Rule 132 Declaration provides evidence of the same. Claims 62-64 are distinguishable for similar reasons.

Claim 61 recites that “the reliability information is different from the variable information.” Wang also does not teach or suggest these features and the Second Rule 132 Declaration provides evidence of the same.

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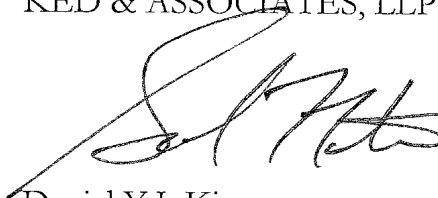
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In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. Favorable consideration and timely allowance of the application are respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
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